



W.P.No.19843 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **N.SENTHILKUMAR**

W.P.No.19843 of 2023
and W.M.P. No.19187 of 2023

Sarasu

... Petitioner

Vs.

- 1.The District Collector cum District Magistrate, Puducherry.
- 2.The Deputy Collector (Revenue) North cum Sub Divisional Magistrate (North), Puducherry.
- 3.The Tahsildar-cum-Executive Magistrate, Department of Revenue & Disaster Management, Taluk Office, Puducherry.
- 4.The Village Administrative Officer, Murungapakkam, Puducherry.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the third respondent proceeding No.2564/TOP/Certificates/2023 dated 23.06.2023 and quash the same and direct the third respondent to issue community certificate to the petitioner as Hindu Parvatharajakulam with origin status by considering the stated facts.



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For Petitioner : Mr.V.Stalin
for Mr.M.D.Ilayaraja

For Respondents : Mr.J.Kumaran,
Addl. Govt. Pleader (Puducherry)

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

Challenging the proceedings of the third respondent dated 23.06.2023 and for a consequential direction to the third respondent to issue community certificate to the petitioner as Hindu Parvatharajakulam with origin status, the present writ petition has been filed.

2. Brief facts which are necessary for disposal of this writ petition are as follows:

2.1 The petitioner's father is a native of Cuddalore in Tamil Nadu and her mother is a native of Puducherry. This fact is not in dispute. It is the case of the petitioner that the marriage between her father and mother was solemnised in Puducherry and her parents started living in her mother's village in Puducherry in a rental house from 1991. The petitioner's father was given the identity card by the Election Commission of India showing his



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residence in Mudaliarpet Constituency, Puducherry even in the year 1995. The petitioner was born on 23.12.1995 in a hospital in Puducherry and the birth certificate was also issued by the Government of Puducherry on 28.12.1995. The petitioner along with her parents and younger sister lived in Puducherry till 2000.

2.2 It is admitted by the petitioner that she along with her parents and younger sister migrated to Tiruppur in Tamil Nadu where the petitioner's father was doing business. Thereafter, in the year 2007, the petitioner's family returned to Puducherry. It is also contended by the petitioner that she completed her 10th standard in 2010 and the Transfer Certificate produced by her shows that she completed her 10th standard in a school in Mudaliarpet, Puducherry. The petitioner also completed her undergraduate degree in Puducherry. The petitioner's marriage was also solemnised in Puducherry in 2019. The said marriage was registered before the Puducherry Government as seen from records.

2.3 The petitioner applied for the post of Stenographer on 02.03.2022 and selected under the category of Extreme Backward Class for single post. The petitioner thereafter applied for



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community certificate for Extreme Backward Community under origin status as recognised by the Puducherry Government earlier. However, the third respondent has refused to issue the community certificate to the petitioner on the ground that the petitioner and her parents are not the residents of Union Territory of Puducherry as on the cut off date viz., 19.02.2021 and that the claim for issuing community certificate with origin status cannot be considered.

3. Learned counsel for the petitioner submitted that the conclusion of the third respondent that the petitioner's father is a non-resident of Puducherry is erroneous and the third respondent ought to have taken into consideration the fact that the petitioner's mother is a native of Puducherry and the petitioner's father lived in Puducherry from 1991 till 2000 and was issued with Voter Identity Card. Learned counsel further submitted that the petitioner should not be treated as migrant and taking into consideration the fact that the petitioner had completed her higher secondary education and college education in Puducherry, she should have been granted the community certificate with origin status.

4. A counter affidavit is filed by the third respondent as if the



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petitioner's family was migrated to Puducherry only about ten years back i.e., during 2010. In the counter, it is stated that origin status under MBC category can be given to those who are living in Puducherry since the year 2001 and that the petitioner who was not residing in Puducherry as on the cut-off date is not at all eligible for origin status.

5. Learned Additional Government Pleader for third respondent relied upon the Government Order vide G.O.Ms.No.15/SWS/2019-20 dated 07.08.2019. The same was also published in the Gazette n 08.08.2019. From the Government order, it is seen that based on the representation of Puducherry Poorviga Kudimakkal Urimai Padhukappu Peravai, the Government was requested to fix crucial date for determination of origin/migrant Other Backward Classes. It is admitted that the petitioner's community in Puducherry was recognised as Other Backward Classes. However, in support of the stand of the respondents that the petitioner was not residing at Puducherry and therefore, she is not eligible to get the community certificate with origin status from Puducherry, learned Additional Government Pleader relied upon the following portion of the Government Order:

'And whereas, the Administrator of Puducherry



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decided to get the approval of the Ministry of Home Affairs, Government of India vide letters dated 06.12.2017 and 26.07.2019. Accordingly, the Ministry of Home Affairs, Government of India has agreed to the proposal of Government of Puducherry for fixing the cut-off date as 19.02.2001 for determining the status of origin/migrant Other Backward Class (OBC) in the Union territory of Puducherry.

Now, therefore, in compliance with the instructions of Ministry of Social Justice and Empowerment, Government of India, New Delhi, the Lieutenant-Governor, Puducherry, is pleased to approve the proposal of the Social Welfare Secretariat as resolved by the Council of Ministers and for the said purpose hereby declares the date "19th February, 2001" as the cut-off date for determining the status of the origin/migrants Other Backward Classes, in the Union territory of Puducherry.'

6. From the counter affidavit, it is seen that the third respondent has taken a stand that the petitioner who was not residing in Puducherry between 2000 and 2007 cannot be considered as a migrant from Tamil Nadu before 2000 to get the certificate.



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7. The Government fixed the cut-off date for determining the status of the origin/migrant Other Backward Classes in the Union Territory of Puducherry. The purpose of fixing cut-off date is to determine the status of any individual applying for community status. The fact that the petitioner's mother belongs to Puducherry is not in dispute. The petitioner's father, though a permanent resident of Tamil Nadu, after marriage, came to Puducherry and living there. The petitioner was born in Puducherry. It is seen that the petitioner for a short period was living away from Puducherry as her father was doing business in Tiruppur. However, the petitioner came back to Puducherry and completed her 10th standard only in Puducherry. The petitioner having born and brought up in Puducherry even before crucial date cannot be treated as a person who migrated from Tamil Nadu to Puducherry.

8. In view of the above, we find that the petitioner is entitled to the relief prayed for in this writ petition.

9. Though a contention was raised as to the availability of alternative remedy by way of appeal before the Deputy Collector(Revenue)-cum-Sub-Divisional Magistrate as per the memorandum of the Secretary (Revenue), Department of Revenue



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and Disaster Management, Puducherry dated 17.10.2019, considering the issue which is under consideration, we find that it is unnecessary to drive the petitioner again to the appellate authority. Further, the appeal remedy is not being statutory but by the executive order, this Court is not inclined to dismiss the writ petition on the ground of availability of alternative remedy.

10. The impugned order is therefore set aside and the writ petition is allowed. The third respondent is directed to issue community certificate as prayed for by the petitioner within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.S., J.)
29.01.2024

Index : Yes / No
Neutral Citation : Yes / No
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Department of Revenue & Disaster
Management, Taluk Office,
Puducherry.

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**S.S. SUNDAR, J.
and
N.SENTHILKUMAR, J.**

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